IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

NOTICE OF MOTION NO.54 OF 2006

IN

PETITION NO.507 OF 2004

Bhagwan C. Thadani. ... Petitioner

vs.

Umakant Govindprasad Aggarwal. ... Respondent/Caveator

Mr.Vishwanath i/b. Ms.Aaradhana Latne, for Petitioner.

Mr.D.H.Mehta i/b. Legal Vision, for Respondent/Caveator.

CORAM: D.K.DESHMUKH,J.

DATED: 5th October,2006

P.C.:-

1. This is a notice of motion taken out by the petitioner who has filed the petition for probate of a Will left behind by Mr.Naru Chandiram Thadhani.. The respondent Umakant Aggarwal has taken

out a caveat. This notice of motion has been taken out by the petitioner for removal of that caveat on the ground that the caveator does not have any caveatable interest in the property left behind by the deceased. Even, according to the caveator he is a tenant of the property. Even assuming that the caveator is a tenant of the property left behind by the deceased, in view of the provisions of Rule 402 of the Rules framed by this Court and the judgment of the learned Single Judge of

this Court in the case ""“Eruch Rustom Irani Vs. Limji Kaikashroo Panday, 1993(1) Bom.C.R. 340” the caveator does not have any caveatable interest in the property left behind by the deceased and therefore, he is not entitled to file a caveat. The notice of motion is therefore, granted in terms of prayer clause (a). No order as to costs. This order however shall not come in the way of the caveator adopting appropriate remedy for protecting his rights.